

HB2929



98TH GENERAL ASSEMBLY

State of Illinois

2013 and 2014

HB2929

by Rep. Timothy L. Schmitz

SYNOPSIS AS INTRODUCED:

55 ILCS 5/5-1134 new
625 ILCS 5/11-208.7

Amends the Counties Code. Authorizes a county to collect administrative fees pursuant to certain provisions of the Illinois Vehicle Code. Amends the Illinois Vehicle Code. Authorizes a county to impose administrative fees and procedures for impounding vehicles for specified violations. Effective immediately.

LRB098 10896 OMW 41421 b

FISCAL NOTE ACT
MAY APPLY

A BILL FOR

1 AN ACT concerning local government.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Counties Code is amended by adding Section
5 5-1134 as follows:

6 (55 ILCS 5/5-1134 new)

7 Sec. 5-1134. Administrative fees for impounding vehicles.
8 A county may collect an administrative fee for impounding
9 vehicles as provided by Section 11-208.7 of the Illinois
10 Vehicle Code.

11 Section 10. The Illinois Vehicle Code is amended by
12 changing Section 11-208.7 as follows:

13 (625 ILCS 5/11-208.7)

14 Sec. 11-208.7. Administrative fees and procedures for
15 impounding vehicles for specified violations.

16 (a) Any municipality or county may, consistent with this
17 Section, provide by ordinance procedures for the release of
18 properly impounded vehicles and for the imposition of a
19 reasonable administrative fee related to its administrative
20 and processing costs associated with the investigation,
21 arrest, and detention of an offender, or the removal,

1 impoundment, storage, and release of the vehicle. The
2 administrative fee imposed by the municipality or county may be
3 in addition to any fees charged for the towing and storage of
4 an impounded vehicle. The administrative fee shall be waived by
5 the municipality or county upon verifiable proof that the
6 vehicle was stolen at the time the vehicle was impounded.

7 (b) Any ordinance establishing procedures for the release
8 of properly impounded vehicles under this Section may impose
9 fees for the following violations:

10 (1) operation or use of a motor vehicle in the
11 commission of, or in the attempt to commit, an offense for
12 which a motor vehicle may be seized and forfeited pursuant
13 to Section 36-1 of the Criminal Code of 2012; or

14 (2) driving under the influence of alcohol, another
15 drug or drugs, an intoxicating compound or compounds, or
16 any combination thereof, in violation of Section 11-501 of
17 this Code; or

18 (3) operation or use of a motor vehicle in the
19 commission of, or in the attempt to commit, a felony or in
20 violation of the Cannabis Control Act; or

21 (4) operation or use of a motor vehicle in the
22 commission of, or in the attempt to commit, an offense in
23 violation of the Illinois Controlled Substances Act; or

24 (5) operation or use of a motor vehicle in the
25 commission of, or in the attempt to commit, an offense in
26 violation of Section 24-1, 24-1.5, or 24-3.1 of the

1 Criminal Code of 1961 or the Criminal Code of 2012; or

2 (6) driving while a driver's license, permit, or
3 privilege to operate a motor vehicle is suspended or
4 revoked pursuant to Section 6-303 of this Code; except that
5 vehicles shall not be subjected to seizure or impoundment
6 if the suspension is for an unpaid citation (parking or
7 moving) or due to failure to comply with emission testing;
8 or

9 (7) operation or use of a motor vehicle while
10 soliciting, possessing, or attempting to solicit or
11 possess cannabis or a controlled substance, as defined by
12 the Cannabis Control Act or the Illinois Controlled
13 Substances Act; or

14 (8) operation or use of a motor vehicle with an expired
15 driver's license, in violation of Section 6-101 of this
16 Code, if the period of expiration is greater than one year;
17 or

18 (9) operation or use of a motor vehicle without ever
19 having been issued a driver's license or permit, in
20 violation of Section 6-101 of this Code, or operating a
21 motor vehicle without ever having been issued a driver's
22 license or permit due to a person's age; or

23 (10) operation or use of a motor vehicle by a person
24 against whom a warrant has been issued by a circuit clerk
25 in Illinois for failing to answer charges that the driver
26 violated Section 6-101, 6-303, or 11-501 of this Code; or

1 (11) operation or use of a motor vehicle in the
2 commission of, or in the attempt to commit, an offense in
3 violation of Article 16 or 16A of the Criminal Code of 1961
4 or the Criminal Code of 2012; or

5 (12) operation or use of a motor vehicle in the
6 commission of, or in the attempt to commit, any other
7 misdemeanor or felony offense in violation of the Criminal
8 Code of 1961 or the Criminal Code of 2012, when so provided
9 by local ordinance.

10 (c) The following shall apply to any fees imposed for
11 administrative and processing costs pursuant to subsection

12 (b):

13 (1) All administrative fees and towing and storage
14 charges shall be imposed on the registered owner of the
15 motor vehicle or the agents of that owner.

16 (2) The fees shall be in addition to (i) any other
17 penalties that may be assessed by a court of law for the
18 underlying violations; and (ii) any towing or storage fees,
19 or both, charged by the towing company.

20 (3) The fees shall be uniform for all similarly
21 situated vehicles.

22 (4) The fees shall be collected by and paid to the
23 municipality or county imposing the fees.

24 (5) The towing or storage fees, or both, shall be
25 collected by and paid to the person, firm, or entity that
26 tows and stores the impounded vehicle.

1 (d) Any ordinance establishing procedures for the release
2 of properly impounded vehicles under this Section shall provide
3 for an opportunity for a hearing, as provided in subdivision
4 (b) (4) of Section 11-208.3 of this Code, and for the release of
5 the vehicle to the owner of record, lessee, or a lienholder of
6 record upon payment of all administrative fees and towing and
7 storage fees.

8 (e) Any ordinance establishing procedures for the
9 impoundment and release of vehicles under this Section shall
10 include the following provisions concerning notice of
11 impoundment:

12 (1) Whenever a police officer has cause to believe that
13 a motor vehicle is subject to impoundment, the officer
14 shall provide for the towing of the vehicle to a facility
15 authorized by the municipality or county.

16 (2) At the time the vehicle is towed, the municipality
17 or county shall notify or make a reasonable attempt to
18 notify the owner, lessee, or person identifying himself or
19 herself as the owner or lessee of the vehicle, or any
20 person who is found to be in control of the vehicle at the
21 time of the alleged offense, of the fact of the seizure,
22 and of the vehicle owner's or lessee's right to an
23 administrative hearing.

24 (3) The municipality or county shall also provide
25 notice that the motor vehicle will remain impounded pending
26 the completion of an administrative hearing, unless the

1 owner or lessee of the vehicle or a lienholder posts with
2 the municipality or county a bond equal to the
3 administrative fee as provided by ordinance and pays for
4 all towing and storage charges.

5 (f) Any ordinance establishing procedures for the
6 impoundment and release of vehicles under this Section shall
7 include a provision providing that the registered owner or
8 lessee of the vehicle and any lienholder of record shall be
9 provided with a notice of hearing. The notice shall:

10 (1) be served upon the owner, lessee, and any
11 lienholder of record either by personal service or by first
12 class mail to the interested party's address as registered
13 with the Secretary of State;

14 (2) be served upon interested parties within 10 days
15 after a vehicle is impounded by the municipality or county;
16 and

17 (3) contain the date, time, and location of the
18 administrative hearing. An initial hearing shall be
19 scheduled and convened no later than 45 days after the date
20 of the mailing of the notice of hearing.

21 (g) In addition to the requirements contained in
22 subdivision (b) (4) of Section 11-208.3 of this Code relating to
23 administrative hearings, any ordinance providing for the
24 impoundment and release of vehicles under this Section shall
25 include the following requirements concerning administrative
26 hearings:

1 (1) administrative hearings shall be conducted by a
2 hearing officer who is an attorney licensed to practice law
3 in this State for a minimum of 3 years;

4 (2) at the conclusion of the administrative hearing,
5 the hearing officer shall issue a written decision either
6 sustaining or overruling the vehicle impoundment;

7 (3) if the basis for the vehicle impoundment is
8 sustained by the administrative hearing officer, any
9 administrative fee posted to secure the release of the
10 vehicle shall be forfeited to the municipality or county;

11 (4) all final decisions of the administrative hearing
12 officer shall be subject to review under the provisions of
13 the Administrative Review Law; and

14 (5) unless the administrative hearing officer
15 overturns the basis for the vehicle impoundment, no vehicle
16 shall be released to the owner, lessee, or lienholder of
17 record until all administrative fees and towing and storage
18 charges are paid.

19 (h) Vehicles not retrieved from the towing facility or
20 storage facility within 35 days after the administrative
21 hearing officer issues a written decision shall be deemed
22 abandoned and disposed of in accordance with the provisions of
23 Article II of Chapter 4 of this Code.

24 (i) Unless stayed by a court of competent jurisdiction, any
25 fine, penalty, or administrative fee imposed under this Section
26 which remains unpaid in whole or in part after the expiration

1 of the deadline for seeking judicial review under the
2 Administrative Review Law may be enforced in the same manner as
3 a judgment entered by a court of competent jurisdiction.

4 (Source: P.A. 97-109, eff. 1-1-12; 97-1150, eff. 1-25-13.)

5 Section 99. Effective date. This Act takes effect upon
6 becoming law.